UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,765	02/05/2004	Seppo Pohja	915-007.074	5593

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EXAMINER
POLLACK, MELVIN H

ART UNIT	PAPER NUMBER
2469	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/773,765	POHJA ET AL.
	Examiner	Art Unit	
	MELVIN H. POLLACK	2469	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 July 2010</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>92-125</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>92-125</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>05 February 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail. Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 7/6/10 has been entered.

Response to Arguments

2.   Applicant's arguments with respect to claims 92 - 125 have been considered but are moot

in view of the new ground(s) of rejection.

3.   Claims 1-91 have all been cancelled in favor of new claims with new limitations.

4.   Applicant argues that Libes does not expressly disclose the lack of monitoring channel

conditions (P. 10). The examiner disagrees, by noting that determining a success or failure

condition is still monitoring of conditions.

5.   Applicant then argues that Libes does not expressly disclose updating in response of

conditions (P. 10). In the interest of advancing prosecution, examiner will interpret this

limitation as the applicant does, and will modify the original rejections to add art that updates the

connection, i.e. in cases of interference or signal quality.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person

> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

7.   Claims 92-125 are rejected under 35 U.S.C. 103(a) as being unpatentable over Libes

(2003/0,162,556) in view of Salokannel et al. (2005/0,059,420).

8.   For claims 92, 124, Libes teaches a method and software product (abstract; Paras. 1-30

and 49) comprising:

        a.   detecting, by a device (Para. 32, master detects master), based on measurement

        results that a mobile device is at least in close vicinity to another mobile device (Paras. 35

        – 39; several methods of detecting close vicinity);

        b.   causing, by a device, the establishment of a communication channel via a

        communication network between the mobile device and the other mobile device in

        response to the detection that the mobile device is at least in close vicinity to another

        mobile device (Para. 32; handshaking between masters);

        c.   monitoring, by a device, conditions on said established communication channel

        (Paras. 41, 45; determining compatibility, success or failure of connections).

9.   Libes does not expressly disclose updating, by a device, said communication channel in

case said conditions are detected to be worse than predetermined conditions. Salokannel teaches

a method and system (abstract) of developing short-range wireless systems (Paras. 1-27 and 111-

113) that includes the device updating the communication channel (Paras. 56 – 64) based on

current conditions (Paras. 79 – 97). At the time the invention was made, one of ordinary skill in

the art would have added the Salokannel coordinator and interference handling system to the

Libes piconet system in order to provide a coordinator for ensuring connections for priority

devices (Paras. 12 – 15).

10.   For claim 93, Libes teaches that detecting that the mobile device is at least in close

vicinity to another mobile device comprises at least one of detecting a physical touch between

the mobile device and the other mobile device (Para. 33, direct contact) and detecting a short

distance between the mobile device and the other mobile device (Paras. 35 – 39; plugs within

physical proximity).

11.   For claims 94, 103, 114, Libes teaches that the communication channel is set up

according to one of predefined user preferences and a user input (Paras. 36 (optional switch), 43

– 45 (particular data shared)).

12.   For claims 95, 104, 115, Libes teaches performing a security operation for determining at

least one of whether the communication channel is allowed to be established between the mobile

device and the other mobile device and whether the communication channel is allowed to be

used for a specific data transmission (Para. 32; security key, manufacturer's information).

13.   For claims 96, 105, 117, Libes teaches notifying at least one application in the mobile

device about the communication channel (Paras. 43-45; notifications, information transfer).

14.   For claims 97, 106, 118, Libes teaches invoking at least one application or at least one

function of at least one application in the mobile device (Para. 43; information transfer, printing),

in order to enable the at least one invoked application or at least one invoked function to interact

via the communication channel with another application (Para. 45; interactions between devices).

15.   For claims 98, 107, 119, Libes teaches establishing the communication channel is

followed by a context dependent interaction via the communication channel with the other

mobile device (Paras. 31-32 and 39-45; interactions depend on context).

16.   For claims 100, 109, 121, Libes teaches an exchange of data via the established

communication channel based on a user input to the mobile device (Paras. 36 (optional switch),

43 – 45 (particular data shared)).

17.   For claims 101, 112, 123, 125, Libes teaches that established communication channel

uses a direct link between said first electronic device and said at least one other of said electronic

devices (Para. 32; handshaking connection), and wherein updating said communication channel

comprises replacing said direct link by an indirect link between said first electronic device and

said at least one other of said electronic devices (Para. 43; switching from primary to secondary

connection system, i.e. from handshaking to wireless network).

18.   For claims 102, 113, Libes teaches an apparatus and system (abstract; Paras. 1-30 and 49)

comprising:

        a.   a touch detection portion (Para. 33, direct contact), the touch detection portion

        being configured to detect (Para. 32, master detects master) based on measurement results

        that a mobile device is at least in close vicinity to another mobile device (Paras. 35 – 39;

        several methods of detecting close vicinity); and

        b.   a link creation portion configured to cause the establishment of a communication

        channel via a communication network between the mobile device and the other mobile

        device in response to the detection that the mobile device is at least in close vicinity to

        another mobile device (Para. 32; handshaking between masters);

        c.   the link creation portion configured to monitor conditions on said established

        communication channel (Paras. 41, 45; determining compatibility, success or failure of

        connections).

19.   Libes does not expressly disclose to update said communication channel in case said

conditions are detected to be worse than predetermined conditions. Salokannel teaches a method

and system (abstract) of developing short-range wireless systems (Paras. 1-27 and 111-113) that

includes the device updating the communication channel (Paras. 56 – 64) based on current

conditions (Paras. 79 – 97). At the time the invention was made, one of ordinary skill in the art

would have added the Salokannel coordinator and interference handling system to the Libes

piconet system in order to provide a coordinator for ensuring connections for priority devices

(Paras. 12 – 15).

20.   For claims 110, 116, Libes teaches that the apparatus is a mobile device (Para. 31,

wireless).

21.   For claims 111, 122, Libes teaches that the apparatus is a mobile phone (Para. 31, cellular

phone).

22.   Claims 99, 108 and 120 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Libes and Salokannel as applied to claims 92, 102, 113 above, and further in view of Kreiner et

al. (7,224,698).

23.   For claims 99, 108, 120, Libes does not expressly disclose at least one of a copy-and-

paste functionality, a cut-and-paste functionality and a drag-and-drop functionality in the mobile

device makes use of the established communication channel for interacting with the other mobile

device. Kreiner teaches a method and system (abstract) for sharing information over an ad-hoc

network (col. 1, line 1 – col. 8, line 37) that includes the cut/copy and past functionality (col. 8,

line 37 – col. 9, line 45). At the time the invention was made, one of ordinary skill in the art

would have added the copy-paste functionality of Kreiner to the system of Libes in order to

provide improved synchronization of information (col. 1, line 60 – col. 2, line 20).

Conclusion

24.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to MELVIN H. POLLACK whose telephone number is (571)272-

3887. The examiner can normally be reached on 8:00-4:30 M-F.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ian Moore can be reached on (571) 272-3085. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

                                            /Melvin H Pollack/
                                            Examiner, Art Unit 2469
                                            21 November 2010